

REMARKS

THE CLAIMS

Formal Rejections

Claims 3 - 10 have been amended so that they do not depend from a multiple dependent claim, each depending from claim 1, claim 2 or new independent claim 11.

New claim 11 includes limitations derived from (but not identical to) limitations in original claims 1 - 3.

Prior Art Rejections

The Examiner's thorough review of the prior art is acknowledged. The Examiner rejects claims 1 – 3 concluding that pages 3 - 4 of an apparently cached web page entitled "Motion Furniture" create a Section 102 (b) bar on September 29, 2003. The cited pages 3 - 4, state:

"Flexsteel IHFC C-558

Expanding its home theater seating lineup with Elmhurst, a seating system with transitional styling at \$1,999.

A new spring system for its recliners, Dualflex, is patterned after the company's blue steel sofa spring system. Five leather and fabric recliners with the new spring system will be unveiled." (emphasis added)

The Examiner includes a publication dated October 13, 2003 that describes some detail. There is also a printout from a web site, having a last copyright year of 2006, with a handwritten URL which describes a product made in accordance with the invention. By its terms, that printout is, itself, from at least as late as 2006.

For the record, it appears from this evidence that the first publication that describes the features of the invention was in text on October 13, 2003. The September 29, 2003 does not, in its terms, describe the invention. Applicant reserves its options to argue non-enablement, and to garner further facts regarding what the article refers to as "will be unveiled", but as discussed below, need not make those arguments now because of priority of October 10, 2003.

Whether or not there was an "on sale" on September 29, 2003 or October 13, 2003 is not determinative of the 102 (b) issue. The present application claims priority based on Provisional Application Serial No. 60/5 10,662 filed 10 October 2003. This was before the October 10, 2003 publication that has some description of what came to be identified as the DUALFLEX SPRING SYSTEM®. The priority date is also well within Section 102 (b)'s one year date, even if we

assume, *arguendo* that the September 29, 2003 date reflects a product on which the claims might read.

While claims 4 - 10 were deemed "withdrawn" by the Examiner, they now depend from claims allowable over the prior art. They should themselves be allowable.

CONCLUSION

Applicant believes that all the formal and prior art issues have been addressed. Claims 1-11 are patentable. Favorable action on the claims is earnestly solicited.

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Respectfully submitted,



David C. Brezina, Reg. No. 34,128
Barnes & Thornburg LLP
P.O. Box 2786
Chicago, IL 60690
Phone: 312-214-4802
Facsimile: 312-759-5646
Attorney for Applicant